

THE
CODE OF WEST VIRGINIA,

(SECOND EDITION,)

CONTAINING

THE CONSTITUTION AND NATURALIZATION LAWS OF THE
UNITED STATES—THE CONSTITUTION OF THE STATE—
THE CODE, AS AMENDED BY LEGISLATION TO AND
INCLUDING THE YEAR 1887 AND MARGINAL
NOTES TO ALL PRIOR LAWS AND AP-
PLICABLE DECISIONS,

WITH AN APPENDIX,

CONTAINING ALL THE STATUTES OF THE STATE IN FORCE
OF A GENERAL AND PROSPECTIVE NATURE, NOT
ENACTED OR INSERTED IN THE SEVERAL
CHAPTERS OF THE CODE.

COMPILED

PURSUANT TO A JOINT RESOLUTION OF THE LEGISLATURE,

BY

JOHN A. WARTH,

OF THE KANAWHA BAR.



WHEELING AND CHARLESTON.
WEST VIRGINIA PRINTING COMPANY, PRINTERS AND BINDERS.
1887.

(without an indictment or any formal pleading) to ascertain the fine or imprisonment proper to be inflicted, and may give judgment according to the verdict.

2 Va. Cas. 408.
23 W. Va. 801.
24 W. Va. 416.

29. No court shall impose a fine for a contempt, unless the defendant be present in court, or shall have been served with a rule of the court to show cause, on some certain day, and shall have failed to appear and show cause.

Acts 1882, ch.
134.
2 Va. Cas. 1.
26 W. Va. 90.

30. If any person by threats, force, or otherwise, intimidate or impede, or attempt to intimidate or impede any judge, justice of the peace, juror, witness, arbitrator, umpire, or an officer or member of any court in the discharge of his duty as such, or by any means obstruct or impede, or attempt to obstruct or impede the administration of justice in any court, he shall be guilty of a misdemeanor, and unless otherwise provided by law, he shall be fined not less than twenty-five nor more than two hundred dollars, and be imprisoned in the county jail not exceeding six months.

31. Any person holding any office or appointment in this State, who shall wilfully fail or refuse to perform any duty required of him by law, shall be guilty of a misdemeanor, and upon conviction thereof shall, if no other punishment be prescribed by law therefor, be fined not exceeding one hundred dollars.

CHAPTER CXLVIII.

OF OFFENCES AGAINST THE PEACE.

SEC.

1. Judges and justices to suppress riots, &c.
2. Rioters, &c., to be committed to jail, unless, &c.
3. Duty of judge or justice receiving notice of riot, &c.
4. Persons engaged in riot, &c., failing to disperse when commanded, what may be done.
5. Judges, &c., not guilty if any person be killed in suppressing riot.
6. Destruction of dwellings by rioters.
7. Carrying of dangerous or deadly weapons, prohibited; sale of, prohibited to minors; person may keep or carry weapons about his premises, &c.; de-

For former law on the subject of this chapter, see Code Va. 1860, ch. 135. For further references, see sections.

SEC.

- fence to indictment for carrying; officer may carry.
8. Disturbance of schools, &c.
9. Unlawful combinations to destroy property, do bodily injury, &c.
10. Person called as witness compelled to testify.
11. How parties to such combination may be indicted.
12. Death resulting from acts mentioned in tenth section, to be murder.
13. Release or rescue of prisoner; under ninth or tenth section to be felony.
14. Intimidation of witnesses in certain cases.
15. Governor may offer reward and employ detectives in certain cases.

2 Va. Cas. 263.

1. All judges and justices may suppress riots, routs, and unlawful assemblies within their jurisdiction. And it shall be the duty of each of them to go among or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, such judge or justice giving the command and any other present, shall command the assistance of all persons present, and of the sheriff of the county, with his posse if need be, in arresting and securing those so assembled. If any person present, on being required to

give his assistance, or depart, or fail to obey, he shall be deemed a rioter.

2. If a person be arrested for a riot, rout or unlawful assembly, ^{Acts 1872-3, ch. 85.} the judge or justice ordering the arrest, or any other justice, shall commit him to jail, unless he shall enter into recognizance, with sufficient security, to appear before the circuit court having jurisdiction of the offence, at its then next term, to answer therefor, and in the meantime to be of good behavior and keep the peace.*

3. If any judge or justice have notice of a riotous, tumultuous, or unlawful assembly in the county in which he resides, and fail to proceed immediately to the place of such assembly, or as near as he may safely, or fail to exercise his authority for suppressing it and arresting the offenders, he shall be fined not exceeding one hundred dollars.

4. If any person engaged in such assembly, being commanded as aforesaid to disperse, fail to do so without delay, any such judge or justice may require the aid of a sufficient number of persons, in arms or otherwise, and proceed, in such manner as he may deem expedient, to disperse and suppress such assembly, and arrest and secure those engaged in it.

5. If by any means, taken under authority of this chapter, to disperse any such assembly, or arrest and secure those engaged in it, any person present, as spectator or otherwise, be killed or wounded, any judge or justice exercising such authority, and every one acting under his order, shall be held guiltless; and if the judge or justice, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assembly shall be deemed guilty of such killing or wounding.

6. If any rioter pull down or destroy, in whole or in part, any dwelling house, or assist therein, he shall be confined in the penitentiary not less than one nor more than five years; and though no such house so be injured, every rioter, and every person unlawfully or tumultuously assembled, shall be confined in jail not more than one year and fined not exceeding one hundred dollars.

7. If a person carry about his person any revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, he shall be guilty of a misdemeanor, and fined not less than twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one, nor more than twelve months; and if any person shall sell or furnish any such weapon as is hereinbefore mentioned to a person whom he knows, or has reason, from his appearance or otherwise, to believe to be under the age of twenty-one years, he shall be punished as hereinbefore provided; but nothing herein contained shall be so construed as to prevent any person from

*The words "county court (in the discretion of such judge or justice)" as contained in the Acts of 1872-3, ch. 85, are omitted, the jurisdiction being now exclusively in the circuit court.

keeping or carrying about his dwelling house or premises, any such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired, and back again. And if upon the trial of an indictment for carrying any such pistol, dirk, razor or bowie knife, the defendant shall prove to the satisfaction of the jury that he is a quiet and peaceable citizen, of good character and standing in the community in which he lives, and at the time he was found with such pistol, dirk, razor or bowie knife, as charged in the indictment, he had good cause to believe and did believe that he was in danger of death or great bodily harm at the hands of another person, and that he was in good faith, carrying such weapon for self-defence and for no other purpose, the jury shall find him not guilty. But nothing in this section contained shall be so construed as to prevent any officer charged with the execution of the laws of the State, from carrying a revolver or other pistol, dirk or bowie knife.

Acts 1866, p. 23. 8. If any person shall wilfully disturb, molest or interrupt any literary society, school, or society formed for intellectual improvement, or any other school or society organized under the laws of this State, or any school, society, or meeting formed or convened for improvement in music, either vocal or instrumental, or for any moral and social amusement, the person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than five dollars, and may be imprisoned in the county jail not exceeding ten days. (See ch. 149, sec. 19, of this code.)

Acts 1882, ch. 135. 9. If two or more persons under the name of "Red Men," "Regulators," "Vigilance Committee," or any other name or without a name, combine or conspire together for the purpose of inflicting any punishment or bodily injury upon any other person or persons, or for the purpose of destroying, injuring, or taking and carrying away any property, real or personal, not their own, every such person, whether he has done any act in pursuance of such combination or conspiracy or not, shall be guilty of a misdemeanor and fined not less than fifty, nor more than five hundred dollars, and may, at the discretion of the court, be confined in jail not less than one, nor more than twelve months.

Id. 25 W. Va. 685. 10. If any person, in pursuance of such combination or conspiracy as is mentioned in the next preceding section, shall inflict any punishment or bodily injury upon another person, or shall destroy, injure, or take and carry away, any property, real or personal, not his own, he shall be guilty of a felony, and confined in the penitentiary not less than two nor more than ten years. And if, on the trial of an indictment under this section, it be proved that two or more persons, the defendant being one, were present, aiding and abetting in the commission of the offence charged therein, it shall be presumed that such offence was com-